

### **REMARKS/ARGUMENTS**

Claims 1-5 remain in the application. Claims 6-15 have been withdrawn in view of the Restriction Requirement and Applicants' telephonic election of claims 1-5 for prosecution on the merits, which Applicants hereby affirm. Claims 1-2 and 4-5 have been amended.

#### ***Claim Rejections – 35 USC §112***

Claims 1-5 stand rejected under 35 U.S.C. 112, second paragraph, as failing to distinctly claim the invention, based on the use of the term “optionally” in claim 1.

In response, claim 1 has been amended to remove the phrase “and optionally a skirt” from claim 1. This “skirt” feature has been inserted into dependent claim 5, in place of the “hinge” feature, which has been removed from claim 5.

Further clarifying amendments to claim 1 include the removal of the phrases “at its edge” and “the central area (5, 105) of the support (20, 120) and the remaining,” because those phrases lacked antecedent basis.

Other amendments to claim 1 are discussed below.

Claim 4 has been amended to specify a feature in which the frame is incomplete, but extends around a major portion of the perimeter of the support. Basis for this amendment may be found in the specification at paragraph 31.

In view of the clarifying amendments to claim 1 as described above, Applicants submit that claim 1, as well as claims 2-5 that depend therefrom, is now fully in compliance with 35 U.S.C. 112, second paragraph. Withdrawal of the rejection, therefore, is respectfully requested.

#### ***Claim Rejections – 35 USC §102***

Claims 1-4 stand rejected under 35 USC 102(b) as being anticipated by Cornelisse et al. (EP 1,127,809).

Cornelisse discloses a package 10, which includes a container 1 and a tear-off lid 2 (page 16, third full paragraph). The tear-off lid 2 consists of a lid film 3 and a rim-clamping element ('frame') 4, wherein the lid film 3 and 'frame' 4 are attached via an injection molded connection (*Id.*, see also FIG. 2). Accordingly, when the package 10 is in a closed state as shown in FIG. 1, i.e., with the 'frame' 4 affixed to the container 1, the open mouth of the container 1 is covered and thus products cannot be loaded into the container, because the central opening of the 'frame' 4 is covered by lid film 3, which was attached to the frame 4 prior to placement of the frame onto the container 1.

In the alternative embodiment 10b shown in FIG. 3, the lid film 3b is similarly attached to the 'frame' 4b (page 17, fourth full paragraph). Accordingly, this alternative embodiment similarly does not allow product to be loaded into the container 1b when the 'frame' 4b is in the closed state on container 1b because the central opening of the frame 4b is covered by lid film 3b affixed to the frame.

In contrast, claim 1 has been amended to specify that when the frame is in the closed state, the open mouth of the support (container) remains uncovered so that products can be loaded into the support. This feature is neither taught nor suggested in Cornelisse. Support for the amendment may be found in Applicants' specification, e.g., at paragraph 25.

As explained more fully in Applicants' specification, an advantage of the claimed container assembly, in which the open mouth of the support is uncovered when the frame is engaged with the support, is that the container assemblies with engaged frames can be stacked, with the support residing within the open mouth of the support underneath. A plurality of such container assemblies can be transported with a relatively low total volume, and in a state in which they may immediately be used. An assembled container assembly may then be taken off the stack, filled with product, and then the lidding film can be sealed to the

support flange and frame in one step. Additionally, this arrangement allows the sealing to be performed with a conventional lidding and sealing apparatus, which can, in one step, provide both the hermetic seal between the film and the frame and also a removable seal between the film and the flange of the support.

This is considerably easier than the teaching of Cornelisse, which requires the film to be first sealed to the frame, then product is inserted into the support, then the frame is attached to the support, and finally a seal is made between the film and the flange of the support. This requires many more steps of the food packager than is required by the container assembly according to the present invention.

Accordingly, the invention described in claim 1 as now presented is submitted to be both novel and non-obvious over Cornelisse. Claim 1, as well as the claims dependent therefrom, are therefore submitted to be in condition for allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

  
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